

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**January 8, 2004**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, January 8, 2004, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Ronald Marnell, Chair; Kerry Coulter, Vice-Chair; James Barfield; Bud Hentzen (out @ 3:15); John W. McKay Jr.; Morris K. Dunlap; Elizabeth Bishop; M.S. Mitchell; Ed Sunquist (out @ 3:15); David Wells (in @ 1:38); and Bob Hernandez. Frank Garofalo and Bill Johnson were not present. Staff members present were: John Schlegel, Director of Planning; Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Dave Barber, Land Use; and Rose Simmering, Recording Secretary.

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**1. Approval of MAPC meeting amended minutes of November 6, 2003 and approval of December 11, 2003 meeting minutes.**

**MOTION:** To approve amended minutes from November 6, 2003.

**MCKAY** moved, **COULTER** seconded the motion, and it carried (11-0).

**MOTION:** To approve December 11, 2003 minutes.

**BARFIELD** moved, **BISHOP** seconded the motion, and it carried (11-0).

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**2-1. SUB2003-112 – Final Plat – THE SUMMIT AT NORTH VALLEY ADDITION, located on the south side of 125<sup>th</sup> Street North and the west side of 39<sup>th</sup> Street West.**

**NOTE:** This site is located in the County in an area designated as “rural” by the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan. It is located in the Sedgwick Area of Influence. Individual alternative sewer systems are proposed.

**STAFF COMMENTS:**

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. **A memorandum shall be obtained specifying approval of the proposed individual alternative sewer system from County Code Enforcement along with a maintenance agreement.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A final drainage plan is needed.**
- D. An onsite benchmark is needed.
- E. The plat denotes complete access control along the perimeter street frontage. 150 feet of complete access control from the arterial streets has been platted along the collector streets. 75 feet of complete access control from the arterial streets has been platted along the local street. A corner clip is needed in accordance with access management standards.  
  
The access controls have been platted as requested. Applicant should contact Harvey County Public Works to discuss access on 125th N.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings.
- G. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).
- H. The applicant shall guarantee the installation of the proposed streets including a 36-ft rock suburban street standard for the cul-de-sac streets.
- I. The street guarantee shall include the installation of temporary turnarounds.

- J. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA - NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- K. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- L. According to the platting binder, a blanket pipeline easement has been granted over this plat. The applicant shall either obtain a release of the easement or provide proof that the easement has been confined. If confined, any portion of this easement if on this plat shall be shown and the pipeline's name and recording information shown.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy and SBC have requested additional easements.**
- V. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)) . This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BISHOP** seconded the motion, and it carried (11-0).

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**2-2. SUB2003-142- One-Step Final Plat – DESCHNER ADDITION, located south of 53<sup>d</sup> Street North and on the west side of 279<sup>th</sup> Street West.**

**NOTE:** This unplatted site is located in the County in an area designated as "rural" by the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan. It is located in the Andale Area of Influence.

**STAFF COMMENTS:**

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The rear of the lot appears to be in flood plain. A flood study is needed. A minimum pad may be needed based on flood study and drainage plan. A floodway reserve may be needed based on flood study.**
- D. **County Engineering** needs to comment on the access controls. The plat denotes one opening along 279th St. West. **The access controls are approved.**

- E. A Block shall be designated on the face of the plat as referenced in the plat's text.
- F. Monument designation needs to be shown on final plat.
- G. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).
- H. **County Engineering** has requested 10-ft additional right-of-way along 279th St. West. The Access Management Regulations requires a 60-ft half-street right-of-way width along rural arterials.
- I. The signature line for Tim R. Norton needs to reference the County Commissioners Chairman.
- J. The year "2004" needs to replace "2003" within the signature blocks.
- K. The Applicant is advised that if platted, the Zoning setback standard for the RR, Rural Residential District is 30 feet.
- L. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC has requested additional easements.**
- V. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD ([cholloway@wichita.gov](mailto:cholloway@wichita.gov)). This will be used by the City and County GIS Department.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**COULTER** moved, **BISHOP** seconded the motion, and it carried (11-0).

3-1. **VAC2003-59 – Request to Vacate a 10-foot Utility Easement, located east of Tyler and north of Meadow Park Street.**

**OWNER/APPLICANT:**

Randy Ketzner Construction, Inc. c/o Randy Ketzner

Robl Construction, Inc. c/o Steven J Robl

**AGENT:** Baughman Company, PA c/o Russ Ewy

**LEGAL DESCRIPTION:** The platted 10-foot utility easement that runs parallel to the property line between Lots 4 & 5, Block C, Fossil Rim Estates Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located southeast of the Tyler Road – 29<sup>th</sup> Street North intersection, more specifically northwest of the Meadow Park – Pepper Ridge intersection, 8610 & 8614 Meadow Park Street

**REASON FOR REQUEST:** Additional square footage for development

**CURRENT ZONING:** Subject property and all adjoining properties are zoned “SF-5” Single Family Residential. The applicant is requesting consideration for the vacation of a platted 10-foot utility easement, which runs parallel to the property line between Lots 4 & 5, Block C, Fossil Rim Estates Addition. Half of the platted 10-foot easement is on Lot 4 and the other half is on Lot 5. There are no sewer or water lines in the platted easement. The Fossil Rim Estates Addition was recorded with the Register of Deeds May 31, 2002.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted utility easement as described in the legal description and the plat with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time December 18, 2003 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described platted easement and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted easement described in the petition should be approved with conditions:
- (1) Vacate the 10-foot platted easement which runs between the property line of Lots 4 & 5, Block C, Fossil Rim Estates Addition, stopping at its point of intersection with the platted 20-foot drainage and utility easement that's runs parallel to the north property lines of Lot 4 & 5, Block C, Fossil Rim Estates Addition.
  - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  - (3) All improvements shall be according to City Standards.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the 10-foot platted easement which runs between the property line of Lots 4 & 5, Block C, Fossil Rim Estates Addition, stopping at its point of intersection with the platted 20-foot drainage and utility easement that's runs parallel to the north property lines of Lot 4 & 5, Block C, Fossil Rim Estates Addition.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**WELLS** moved, **MCKAY** seconded the motion, and it carried (11-0).

3-2. **VAC2003-60 – Request to Vacate a 20-foot Utility Easement, located southeast of 29<sup>th</sup> Street North and Tyler Road; east and west of Pepper Ridge Street.**

**OWNER/APPLICANT:** Thomas & Audrey Udland

**AGENT:** Baughman Company, PA c/o Russ Ewy

**LEGAL DESCRIPTION:** The platted 20-foot utility easement that runs parallel to the south property line of Lot 24, Block A, Fossil Rim Estates Addition, Wichita, Sedgwick County, Kansas.

**LOCATION:** Generally located southeast of the Tyler Road – 29<sup>th</sup> Street North intersection, more specifically southeast of the Meadow Park – Pepper Ridge intersection, on North Pepper Ridge

**REASON FOR REQUEST:** Additional square footage for development

**CURRENT ZONING:** Subject property and all adjoining properties are zoned “SF-5” Single Family Residential.

The applicant is requesting consideration for the vacation of a platted 20-foot utility easement which runs parallel to the south property line of Lot 24, Block A, Fossil Rim Estates Addition. All of the platted 20-foot easement is on Lot 24. There are no sewer or water in the platted easement. The Fossil Rim Estates Addition was recorded with the Register of Deeds May 31, 2002.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted utility easement as described in the legal description and the plat with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time December 18, 2003 which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described platted easement and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the platted easement described in the petition should be approved with conditions:
1. Vacate the 20-foot platted easement which runs parallel to the south property line of Lot 24, Block A, Fossil Rim Estates Addition, stopping at its point of intersection with the platted 20-foot drainage and utility easement that's runs parallel to the east property line of Lot 24, Block A, Fossil Rim Estates Addition.
  2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
  3. All improvements shall be according to City Standards.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the 20-foot platted easement which runs parallel to the south property line of Lot 24, Block A, Fossil Rim Estates Addition, stopping at its point of intersection with the platted 20-foot drainage and utility easement that's runs parallel to the east property line of Lot 24, Block A, Fossil Rim Estates Addition.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**WELLS** moved, **MCKAY** seconded the motion, and it carried (11-0).

4. **Case No.: CON2003-47** – Ronald and Michelle Goodwin (owner/applicant) request Conditional Use for a Wrecking and Salvage Yard on property zoned “GI” General Industrial on property described as;

Beginning at a point 229.7 feet east of the West line of Section 4, Township 27 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas, on the center line of 25<sup>th</sup> Street, and the Easterly right-of-way line of the AT&SF Railroad as condemned in Book Misc. 1, page 615; thence north along said right-of-way line for a distance of 255 feet; thence east 141.16 feet; thence north 200 feet; thence east 201.16 feet; thence south 455 feet; thence west 342.32 feet to the point of beginning, EXCEPT the south 60 feet thereof for street. Generally located North of 25<sup>th</sup> Street North and east of Broadway

**BACKGROUND:** The applicant is requesting a Conditional Use to permit a wrecking/salvage yard on a 2.5 acre unplatted tract located north of 25<sup>th</sup> Street North and east of Broadway. The subject property is zoned “GI” General Industrial, and a wrecking/salvage yard may be permitted by a Conditional Use in the “GI” district.

The surrounding area is characterized by heavy industry, with many resource-based industrial uses in the immediate vicinity. All of the properties surrounding the subject property are zoned “GI” General Industrial. Major uses in the vicinity of the subject property include: a railroad yard, metal recycling, vehicle wrecking/salvage yards, grain storage, meat product processing, and petroleum storage and refining. Commercial and residential uses are located to the west across Broadway.

The applicant submitted the attached site plan illustrating the proposed use of the subject property as a vehicle wrecking/salvage yard. The proposed site plan does not conform with two requirements of the Unified Zoning Code (UZC).

First, Section III-D.6.e.(3) of the UZC requires that a wrecking/salvage yard be entirely enclosed by an eight-foot high solid screening fence, even when adjacent to non-residential uses; however, the applicant proposes to construct a screening fence along the east property line only at such time as the existing metal recycling business to the east ceases operation. Since the UZC requirement for wrecking/salvage yard screening is a Supplementary Use Regulation, the requirement can be waived by the City Council upon receiving a favorable recommendation from the MAPC. Planning staff does not recommend waiving the screening requirement along the east property line since a wrecking/salvage operation can have a significant negative visual impacts on surrounding areas if not appropriately screened. The existing metal recycling business does not conform to current screening requirements and is a good example of the significant negative visual impacts of a lack of appropriate screening.

Second, Section III-E.2.3.(1)(b) does not permit a fence in excess of eight feet in height to be located within the required setback. The "GI" General Industrial zoning district requires a 20-foot setback along 25<sup>th</sup> Street North; therefore, the proposed nine-foot high screening fence along the south property line will either need to be reduced to eight feet in height or be set back 20 feet from the south property line.

**CASE HISTORY:** The subject property was platted as part of the Goldstein's Addition in 1887, which was vacated by an act of the State Legislature in 1895.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"GI"	Railroad yard
SOUTH:	"GI"	Undeveloped
EAST:	"GI"	Metal recycling
WEST:	"GI"	Railroad yard

**PUBLIC SERVICES:** The subject property has access to 25th Street North, an unpaved local industrial street. Municipal water and sewer services are not needed for the proposed wrecking/salvage yard use.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. The proposed site meets these locational guidelines for industrial development.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year and the following conditions:

1. The Conditional Use shall authorize the operation of an iron, metal, and auto wrecking/salvage yard. In no event shall the storage or bailing of waste, scrap paper, rags or junk (excluding metal) be permitted in conjunction with this use.
2. The subject property shall be entirely enclosed by a metal panel fence that is not less than 8 feet in height and having cracks and openings not in excess of five percent of the area of such fence. The metal panel fence shall be a single color and shall be white, gray, tan or similar non-bright color. Access gates are permitted in the screening fence, but all gates shall be constructed of solid metal panels matching the fence and shall remain closed unless in use. No wrecked vehicles or salvage, including vehicle parts or accessories, shall be permitted for screening purposes or located on or attached to the screening fence. If the screening fence exceeds 8 feet in height, it shall not be located within any required setback.
3. The height of wrecked vehicles or salvage, including vehicle parts or accessories, shall not exceed the height of the Screening fence and shall not be visible from ground-level view from any public right-of-way or adjoining properties.
4. Salvaged materials are to be piled and stored in an orderly manner such as would be provided by racks or bins. In order to reduce rodent potential, racks and bins shall be elevated so there is at least 18 inches between the bottom of the rack or bin and the ground. Racks or bins shall be a minimum of 48 inches away from any wall, fence, or other rack or bin. Non-rackable material shall be stored with an exposed perimeter or in a manner specified by the Environmental Health Department to prevent rodent harborage and breeding.
5. The applicant shall maintain at all times an active program for the eradication and control of rodents.
6. Weeds shall be controlled within the salvage area and adjacent to and along the outside perimeter of the screening fence.
7. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the wrecking/salvage yard shall be provided by fire lanes per the direction and approval of the Fire Department.
8. Access to the subject property shall be provided for on-going inspections of the site for soil and groundwater contaminants by the Environmental Health Department and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells on the property to monitor the quality of groundwater and shall pay the cost of an annual groundwater test for contaminants as designated by the Environmental Health Department.

9. Notification shall be given to the Environmental Health Department of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with the Environmental Health Department. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Health Department.
10. The applicant shall implement a drainage plan approved through the platting process that minimizes non-point source contamination of surface and ground water.
11. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of a wrecking/salvage yard.
12. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by heavy industry, with many resource-based industrial uses in the immediate vicinity. All of the properties surrounding the subject property are zoned "GI" General Industrial. Several wrecking/salvage operations are located in the vicinity of the subject property. The proposed wrecking/salvage yard is consistent with the zoning, uses, and character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "GI" General Industrial. A wrecking/salvage yard may be permitted with a Conditional Use in the "GI" General Industrial district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on nearby property should be minimized by the recommended conditions of approval, which include screening the wrecking/salvage operation from nearby commercial/industrial uses.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses should be located in close proximity to support services and provided good access to major arterials, truck routes, belt highways, utility trunk lines, along railroads, near airports and as extensions of existing industrial uses. Industrial uses should be located away from existing or planned residential areas, and sited so as not to travel through less intensive land uses. The proposed site meets these locational guidelines for industrial development.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.

BARFIELD Is that an expansion or is this a new application for a new salvage yard?

KNEBEL It is vacant land and this is a new application for a new salvage yard.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**DUNLAP** moved, **HENTZEN** seconded the motion, and it carried (11-0).

5. **Case No.: ZON2003-65** – Precision Development, Inc., c/o Phil Voegeli (owner) Baughman Company, PA, c/o Terry Smythe (agent) request Zone change from "SF-5" Single-family Residential to "GC" General Commercial on property described as;

That part of the Northeast Quarter of Section 19, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas described as follows: Commencing at the Southeast corner of said Northeast Quarter; thence northerly along the east line of said Northeast Quarter, 660.00 feet to the intersection with the extended north line of Lot 1, Bogue Addition, Wichita, Sedgwick County, Kansas, and for a point of beginning; thence continuing northerly along the east line of said Northeast Quarter, 100.00 feet to the intersection with the extended south line of Lot 1, J W Russell First Addition to Wichita, Sedgwick County, Kansas; thence westerly along the extended south line of Lot 1 in said J W Russell First Addition, 327.00 feet to the southwest corner of Lot 1 in said J W Russell First Addition; thence south-southeasterly, 100.45 feet, more or less, to the northwest corner of Lot 1, Bogue Addition; thence easterly along the north line of Lot 1 in said Bogue Addition, and as extended easterly, 317.63 feet to the point of beginning, all being subject to road rights-of-way of record. Generally located on the west side of Maize Road approximately 1/3 mile south of Central.

**BACKGROUND:** The applicant is requesting to rezone a 0.65-acre tract from "SF-5" Single-family Residential to "GC" General Commercial to allow intensive commercial use. The site is located on the west side of Maize Road approximately 1/3 mile south of Central.

Delano Township offices had been located on the site. This is a public entity and did not require commercial zoning.

The surrounding property is zoned "GC" General Commercial to the north and south. An animal clinic abuts the property, and an office/warehouse is located farther south. A vehicle repair business is located to the north, which a Special Use for a communication

tower on the rear of this site. A daycare, zoned "NR" Neighborhood Retail, is north of the vehicle repair business. Two less intensive uses are located farther to the north. These are a medical office, zoned "GO" General Office, and a convalescent care facility, zoned "B" Multi-family Residential. Cowskin Creek borders the property to the west and a residential neighborhood is located on the west side of the creek, with this property being zoned "SF-5". Buffalo Park, also zoned "SF-5", is located to the east of Maize Road.

**CASE HISTORY:** The property is unplatted. The property is within the Cowskin Creek 500-year floodplain.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"GC", "NR", "GO", "B"	Vehicle repair, daycare, medical office, convalescent care facility
SOUTH:	"GC"	Animal clinic
EAST:	"SF-5"	Cowskin Creek, single-family residential
WEST:	"SF-5"	Buffalo Park

**PUBLIC SERVICES:** The site is located on the west side of Maize Road, a four-lane principal arterial at a mid-mile location. Traffic counts south of Central on Maize Road in 2001 were 17,050 vehicles per day (ADT). The projected volumes for 2030 are 24,000 (projected ADT with NWBYPASS ultimate built-up scenario).

Other normal public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies the property as appropriate for public/institutional, which corresponded to the use of the property by Delano Township. The adjacent property to the north and south are shown as "commercial", with nearby areas shown as commercial, office, and public/institutional. The property to the east is shown as "parkland and open space", and the property to the west is shown as parkland and open space and as low-density residential.

**RECOMMENDATION:** The requested zone change to "GC" General Commercial is not in conformance with the designation of public/institutional on the "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, but it is in conformance with the adjacent commercial uses to the north and south.

Approval of intensive commercial zoning in a mid-mile location generally would be contrary to the Land Use Locational Guidelines to avoid extended strip developments.

The die was cast for this property in 1959 when "C" Commercial zoning was approved on the site to the south instead of the "LC" with Conditional Use for an animal hospital as recommended by the Planning Commission (SCZ-0053, approved by BoCC May 28, 1959). Subsequently, the next property to the south was rezoned to "C" for industrial-type use (SCZ-0174 approved by Planning Commission on November 5, 1964, BoCC January 21, 1965). The pro comments were based on the previous approval of "C" and the presence of the sewage treatment facility east of Maize Road. The negative comments were "spot" zoning. Next the Delano Township maintenance/township hall facility was located at this mid-mile site between 1968 and 1974, but it did not require a change in zoning since it was a public facility. Once again, more "C" zoning was approved for a construction yard (now used as a vehicle repair), this time to the north of the subject site (Z-2384 approved October 22, 1981 by MAPC), and the approval was based on proximity to the township facility with similar activities. The progressive transition to a pocket of "C" type uses had occurred based on the initial request for an animal hospital.

Consequently, this is now an infill situation of "GC" zoning between two existing "GC" properties. None of the commercial/office goals/objectives/strategies fit the requested zone change unless the applicant agrees to cross-lot circulation and joint access with properties to the north or south. This should be pursued at platting.

Based on this information and the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the condition of the applicant granting cross-lot easements to the properties to the north and south as part of the platting.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding property is zoned "GC" General Commercial to the north and south. An animal clinic abuts the property, and an office/warehouse is located farther south. A vehicle repair business is located to the north, which a Special Use for a communication tower on the rear of this site. A daycare, zoned "NR" Neighborhood Retail, is north of the vehicle repair business. Two less intensive uses are located farther to the north. These are a medical office, zoned "GO" General Office, and a convalescent care facility, zoned "B" Multi-family Residential. Cowskin Creek borders the property to the west and a residential neighborhood is located on the west side of the creek, with this property being zoned "SF-5". Buffalo Park, also zoned "SF-5", is located to the east of Maize Road.
2. The suitability of the subject property for the uses to which it has been restricted: It is unlikely this sliver of land would be redeveloped with a residential use, given the location of the site with commercial zoning to the north and south and a major arterial on the east. It could perhaps be reused by a different public/institutional use with the current zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The zone change should have minimal effects on the surrounding property because it is similar to uses to the north and south. The residential area to the west is well-buffered by the Cowskin Creek and floodplain.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies the property as appropriate for public/institutional, which corresponded to the use of the property by Delano Township. The adjacent property to the north and south are shown as "commercial", with nearby areas shown as

commercial, office, and public/institutional. The property to the east is shown as "parkland and open space", and the property to the west is shown as parkland and open space and as low-density residential. The requested zone change to "GC" General Commercial is not in conformance with the designation of public/institutional on the "Wichita Land Use Guide" of the 1999 Update to the Wichita/Sedgwick County Comprehensive Plan, amended in January 2002, but it is in conformance with the adjacent commercial uses to the north and south.

5. Impact of the proposed development on community facilities: Additional traffic from more intense commercial use will add to traffic interruptions on Maize Road, which has eight driveways within 800 feet. This impact can be reduced by shared drives, which is the purpose of request cross-lot access to adjacent properties on Maize Road.

GOLTRY Staff asked the applicant to grant cross-lot easements at the time of platting. The applicant is not in agreement with the granting of cross lot easements. The Traffic Engineer did say that they would look at how cross-lot easements would interact with the properties to the north, and the south, and discuss that at the time of platting.

DUNLAP This is the old Delano Township building?

GOLTRY Yes.

TERRY SMTHYE, BAUGHMAN COMPANY We agree to staff comments subject to platting, and we will discuss the need for cross-lot easements at that time, understanding the constraint that there are only 22 feet from the building to the property line. And, I am not sure if you required a drive to the north and the south, you would be taking that parking lot as well as endangering people.

**MOTION:** To approve and remove the requirements of the cross-lot easements.

**MITCHELL** moved, **DUNLAP** seconded the motion.

BISHOP Would the motion maker consider a motion to remove the requirement to remove the cross lot easements? Because it will leave it up at platting, and it could get lost at that point.

MITCHELL I hope it does.

**MOTION CARRIED:** 10-0-1 **MCKAY** abstains.

6. **Case No.: ZON2003-20** – L&D Real Estate LLC, c/o Dale & Lois Murray (owner); Dan Classen (applicant) request Sedgwick County Amendment to ZON2001-02 Protective Overlay #87 to allow vehicle sales and construction sales and service on property zoned "GC" General Commercial on property described as;

per Jim the legal is as follows: Claassens Corner Addition. Generally located Northwest corner of 61<sup>st</sup> N. and 143<sup>rd</sup> Street East.

**BACKGROUND:** The applicant is requesting an amendment to PO #87, which is attached to ZON2001-02. ZON2001-02 was a zoning change from "RR" Rural Residential to "GC" General Commercial on approximately 3.5-acres. PO #87 restricted the "GC" uses to "limited manufacturing" uses as defined in the Unified Zoning Code, plus allowing all "RR" uses as permitted by right. The applicant requests the amendment to allow the sale of construction supplies and vehicles and equipment. The site is located on the northwest corner of K-254 & 143rd Street East.

The site currently has an old service station building as the office and shop with a 44-foot propane tank located in front, plus individual residential sized propane tanks for sale, rent or lease. Both State and County fire officials have approved the location shown of the 44-foot propane tank. There are also storage sheds, trucks and equipment on the grounds, which is well maintained. The site has an all weather gravel surface throughout with access onto 143<sup>rd</sup> Street, a two-lane sand and gravel road, which accesses onto K-254. The drive onto 143rd is a combination of concrete and all weather service. There is a 6-foot chain link fence with 3 strands of barbed wire topping it.

The closest residence is approximately 1,200 feet to the northwest. Another residence is located to the north approximately 1,400 feet away. All of the surrounding property is zoned "RR" Rural Residential and is either used for large lot residential or agricultural uses. There is a major utility, Westar, located south across K254 from the site, which will probably discourage any use in its immediate area other than its current agricultural use

**CASE HISTORY:** The site was originally developed as a gasoline service station prior to adoption of Countywide zoning. With the adoption of Countywide zoning in 1985, the site was zoned "RR" Rural Residential and the service station was identified as a legal non-conforming use in the "RR" Rural Residential district. CON2001-02 was approved by the MAPC February 8, 2001 to allow agricultural sales and service (propane sales) on the approximately 3.5-acre site as shown on the approved site plan. There were no written protests attached to this case. On March 7, 2001 the BOCC approved "GC" General Commercial zoning with PO #87 for the same site. The uses permitted on the site were restricted to those permitted by the "RR" Rural Residential zoning district plus "limited manufacturing" uses as defined in the Unified Zoning Code. There were no written protests attached to this case. The applicant was required to plat the property. Classen's Corner was released for recording on October 1, 2003.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR" Rural Residential	large lot residential, agricultural
SOUTH:	"RR" Rural Residential	agricultural, major utility
EAST:	"RR" Rural Residential	agricultural and large-lot residential

WEST: "RR" Rural Residential

agricultural and large-lot residential

**PUBLIC SERVICES:** Municipal sewer and water services are not available. The site is in Sedgwick County Rural Water District #1. The site is currently served by on-site services.

**CONFORMANCE TO PLANS/POLICIES:** The Comprehensive Plan depicts this site as "rural". Rural areas consist of land outside the 30 year Wichita urban service boundary and small city growth areas. This category of use is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. Strategy III.B4 states that in those portions of rural unincorporated Sedgwick County located outside the projected urban growth area, commercial development should be limited to those activities that are agriculturally oriented or provide necessary convenience services to residents in the immediate area, or provide highway-oriented services at interchange areas.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions and Protective Overlay # 132:

1. Record a Lot Split with the Register of Deeds within 90 days that clearly defines the approximately 3.5-acre "GC" General Commercial zoning with its amended Protective Overlay. General conformation shall be the current fenced off area as shown on the approved Preliminary Plat of Claassn's Corner. The amended Protective Overlay shall be recorded with the Lot Split.
2. Permitted uses shall be restricted to those permitted by right in the "RR" Rural Residential zoning district, plus agricultural sales and services, propane sales, as a Conditional Use and "GC" General Commercial uses restricted to limited manufacturing, vehicles and equipment sales and construction supplies sales as defined in the Unified Zoning Code.
3. Plant and maintain a landscape buffer of evergreens, a minimum of 5-feet tall, planted at 15-foot centers on the north, west and east sides of the site.
4. All construction supplies/materials or any materials associated with the construction sales shall be screened from the adjacent "RR" zoning and 143rd St East and K-254 by solid screening, by either landscaping, fencing or a combination of the two.
5. Provide a site plan to be approved by the Sedgwick County Fire Department that shows 2 points of access, parking, circulation, buildings (both existing and proposed), storage areas, display areas and any other proposed or/and existing conditions on the site, within 1 year of the approval of the zoning change by the BOCC and prior to operations commencing on the site.
6. Provide on site water supply to be approved by the Sedgwick County Fire Department.
7. No outside storage of salvage vehicles, parts chemicals, oils, or solvents.
8. No bodywork or painting of vehicles.
9. All maintenance work on vehicles shall take place inside a maintenance shop, which shall have a concrete floor.
10. All parking, storage and display areas shall have an all weather surface approved by Sedgwick Count Code Enforcement Department prior to operations commencing on the site.
11. Parking barriers shall be installed along all perimeter boundaries abutting streets except at driveway entrances or where fences are erected.
12. The lighting standards of Sec IV-B.4 shall be complied with. Lighting shall be no taller than 20-feet in height and shall be directed onto the site and away from the residence on the site's north side
13. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons
14. No Outdoor speakers and sound amplification.
15. The surface required for the roads used for access to the site will be asphalt, concrete or a surface approved by Sedgwick Count Code Enforcement Department prior to operations commencing on the site.
16. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. All land surrounding the site is zoned "RR" Rural Residential and

used for agricultural or large lot residential uses. There is a nonconforming vehicle sales lot approximately ½ - ¾ mile east of the site that is not operation. There is a major utility, Westar, south of the site, across K-254.

2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "RR" Rural Residential, but has nonconforming use rights for a gasoline service station. The applicant could operate the site as a gasoline service station as a nonconforming use. The "RR" district restricts uses to agriculture, other very low intensity non-residential uses and large lot residences. Those uses could also be developed here. However, since the site is already developed for gasoline sales, and the "RR" district limits the opportunity for many other nonresidential uses, this site is difficult to reuse. "Agricultural sales and services" is a use that is permitted in the "RR" district with a Conditional Use, and sale of propane is specifically listed in the agricultural sales and services definition.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions of approval will minimize impact on the nearby properties, which are rural in use and character.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: Strategy III.B4 states that in those portions of rural unincorporated Sedgwick County located outside the projected urban growth area, commercial development should be limited to those activities that are agriculturally oriented or provide necessary convenience services to residents in the immediate area, or provide highway-oriented services at interchange areas. The previous implementation of "GC" zoning (and its restriction on "GC" uses) at this location does not conform to the Comprehensive Plan and has lead to the present request for expanded uses on the site. Vehicle and equipment sales and construction sales are not typically located in rural areas, but they could provide services and materials more readily for rural Sedgwick, Harvey and Butler Counties.
5. Impact of the proposed development on community facilities: The proposed uses will lead to a probable increase of traffic onto the site, of cars, light trucks and heavier trucks used in association with the construction sales. The storage of wood and wood products typically associated with construction sales increase the site's fire hazard potential and make on site water necessary. The possible increase in traffic as well as the types of vehicles using the site make the need for improvements to 143rd Street East a possibility.

DUNLAP This property is on Highway 254, and I don't know if everybody is aware but there is a combined effort in its infancy right now to plan all of the Highway 254 corridor from east of El Dorado to and including Wichita. I think John Schlegel has been involved in it, and it is still being organized. I think 2/3 of the communities along that Highway 254 corridor have agreed to work on this project. I just would not like to see anything that becomes permanent out there until they have had a chance to work on it. We have already zoned several intersections out there for a variety of things. This particular case I don't see I problem, but I wanted everyone to be aware that effort is underway.

MARNELL This is an existing property, if this was a different location or different type of business they would be commercial anyway, so this is not raw land that is involved at this point.

DUNLAP No, and it would probably be part of that commercial plan anyway, but I wasn't sure that everyone was aware that effort was in place.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**DUNLAP** moved, **HENTZEN** seconded the motion, and it carried (11-0).

7. **Case No.: ZON2003-64** – Clint Miller Homes, LLC (owner); Ruggles and Bohm (Chris Bohm) request Zone change from "SF-5" Single-family Residential to "GO" General Office on property described as;

That part of the South half of the Northeast Quarter of Section 28, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as commencing at the southeast corner of said Northeast Quarter; thence North, along the east line of said Northeast Quarter, 270.00 feet for a place of beginning; thence West, parallel with the south line of said Northeast Quarter, 510.00 feet; thence North, parallel with the east line of said Northeast Quarter, 757.71 feet to the south line of the Kansas Turnpike right of way, District Court Case A-55770; thence East, along said right of way line, 510.01 feet to the east line of said Northeast Quarter; thence South, along the east line of said Northeast Quarter, 758.79 feet to the place of beginning, EXCEPT the east 50.00 feet for road. Generally located Southwest of Highway I-35 – Greenw ich Road

**BACKGROUND:** The applicant is seeking "GO" General Office zoning on an undeveloped unplatted 8.9-acre tract located just south of I-35 and west of Greenwich. Based upon a preliminary plat that has been approved by MAPC, Fawn Grove at Sunset Lakes, the site would be divided into two lots to provide for building sites that would adjoin a significant drainage feature. The plat depicts a new street, Fawn Grove, going west of Greenwich, located 130 feet south of the turnpike right-of-way, that would provide access to the application area, and continues west to provide traffic circulation for a proposed single-family residential development that is also part of the Fawn Grove at Sunset Lakes plat. This residential area is to be developed by the same applicant as this zoning request. The plat proposes complete access control along the first 130 feet south of the turnpike, and then access control except one opening along the remainder of the property's frontage south of Fawn Grove Street. The plat also depicts a five-foot wall easement running along the west side of the application area to provide the required screening between non-residential development and residential lots. A wall is not required along the south property line, however, fencing, landscaping or some combination is code required to provide screening for the residentially zoned property to the south. Landscape buffering will also be required. The site is currently located across the street from a church parking and a single-family home that is owned by the church. It is expected that the home will be eventually removed to allow for additional parking or other church related uses.

The "GO" district permits building heights up to 60 feet. This district also permits a 32 square-foot pole sign on a single-tenant lot or up to a 96 square-foot pole sign for multi-tenant lots with no individual sign larger than 24 square feet. Sign heights are limited to 22 feet. Building signs up to 32 square-feet in area and 30 feet high are permitted per elevation provided the building elevation has one of the following: street frontage, is adjacent to a nonresidential zoning district or has 150 feet of parking, loading or open space between the sign face and the residential zoning district.

Surrounding property to the north, east and west is zoned "SF-5" Single-family Residential. Property to the south is zoned "SF-20" Single-family Residential. Property to the north is developed with: the I-35 (KTA Turnpike), a church, residential and proposed residential. This site is part of a larger area that has been somewhat slow to develop due in part to the barrier effect the turnpike has, but is now see more development pressures.

**CASE HISTORY:** A preliminary plat, Fawn Grove at Sunset Lakes, was approved by the MAPC on October 30, 2003. This site was annexed on October 24, 2003, and zoned "SF-5" Single-family Residential.

**ADJACENT ZONING AND LAND USE:**

NORTH: "SF-5" Single-family Residential; I-35  
SOUTH: "SF-20" Single-family Residential; large lot residential  
EAST: "SF-5" Single-family Residential; church parking lot, single-family residences  
WEST: "SF-5" Single-family Residential; proposed single-family residential

**PUBLIC SERVICES:** Services are available for extension. Greenwich is currently a two-lane paved arterial. The 2030 Transportation Plan indicates that Greenwich should be improved to a four-lane arterial sometime within the planning period. The City's CIP indicates that improvements are scheduled for 2008.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide" depicts this site as appropriate for "low density residential" uses. This category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches, and similar uses found in such areas. The Plan's office location guidelines indicate that office uses should be generally located adjacent to arterial streets, and office uses located within or adjacent to neighborhoods should be local and service-oriented. The plan also supports the use of office zoning to provide a buffer between residential zoning and more intensive zoning.

**RECOMMENDATION:** Typically office zoning would not be considered appropriate in a mid-mile location such this. However, the size and scope of this request, and this site's location: adjoining the turnpike and an arterial street scheduled to be increased to four lanes; a trend for the intensification of zoning on the segment of Greenwich north of the turnpike; and the need to account for the existing drainage pattern on this site, make this a reasonable request with the understanding that staff would not likely support additional nonresidential zoning requests further south of this location until one adjoins the "LC" zoning already in place at Harry. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding property to the north, east and west is zoned "SF-5" Single-family Residential. Property to the south is zoned "SF-20" Single-family Residential. Property to the north is developed with: the I-35 (KTA Turnpike), a church, residential and proposed residential. This site is part of a larger area that has been somewhat slow to develop due in part to the barrier effect the turnpike has, but is now see more development pressure.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-5" Single-family Residential and could be developed as currently zoned. Home sites could be developed around the drainage feature.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The "GO" zoning district permits more intensive uses than the "SF-5" Single-family Residential district permits, such as multi-family residential; community assembly; correctional placement, limited or hospital to name a few. However, the code required screening and landscaping should minimize any detrimental affects.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: From the public's standpoint, the site is developable as it is currently zoned or with the requested zoning. From the applicant's standpoint it is presumed there would be negative economic impacts should the request be denied. However denial would not remove all economic value or opportunity of the site.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" depicts this site as appropriate for "low density residential" uses. This category provides for the lowest density of urban residential land use and consists of traditional, single-family detached homes, zero lot line units and cluster subdivisions, as well as schools, churches, and similar uses found in such areas. The Plan's office location guidelines indicate that office uses should be generally located adjacent to arterial streets, and office uses located within or adjacent to neighborhoods should be local and service-oriented. The plan also supports the use of office zoning to provide a buffer between residential zoning and more intensive zoning. The request is not in conformance with the "land use guides" recommendation, however the map is to be used as a guide and modified as site-specific characteristics warrant. The site is located adjacent to an arterial street and can potentially provide a buffer to the church parking lot located across the street.
6. Impact of the proposed development on community facilities: Facilities are currently in place or future needs are being addressed through the plat and the City's CIP.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**DUNLAP** moved, **HENTZEN** seconded the motion, and it carried (11-0).

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8. **Case No.: CUP2003-63 DP86 Amendment #1** – Word of Life Ministries c/o Wesley Wolken (owner/applicant) request Amendment to The Dukes Diamonds Community Unit Plan on property described as;

Lot 1, Dukes Diamonds Addition to Wichita, Sedgwick County, Kansas. Generally located North of I-235 and west of Seneca (4121 N. Seneca)

**BACKGROUND:** The applicant requests an Amendment to DP-86 Dukes Diamonds CUP to change the signage provisions of the CUP. The subject property is zoned "GC" General Commercial and is located north of I-235 and west of Seneca. The subject property is currently developed with athletic fields.

The applicant proposes to amend General Conditions #4 and #5 of the CUP that pertain to signage. The existing CUP signage regulations and the proposed new signage regulations are attached. The applicant proposes to amend General Condition #4 to allow a 150 square foot two-sided 20-foot high L.E.D. sign with a message that changes every 8 seconds that may promote off-site activities and facilities sponsored by the Word of Life Church. The applicant also proposes to Amend General Condition #5 to allow off-site signage on up to 3 scoreboards, limited to 96 square feet per sign, and on top of the bleachers/press box, limited to a total of 400 square feet of signage.

The surrounding area is characterized primarily by low-density commercial and industrial uses along the I-235 corridor, with residential uses on large lots to the east across Seneca and urban-density residential uses to the south across I-235. The adjacent property to the north is zoned "SF-5" Single Family and is used as a truck driving school. The adjacent properties to the east across Seneca are zoned "SF-5" Single Family and are developed with single family residences on large lots. The adjacent properties to the south across I-235 are zoned "TF-3" Two Family and "MF-29" Multi-Family and are developed with duplexes and apartments. The adjacent property to the west is zoned "GC" General Commercial and is developed with a church and associate recreational facilities.

**CASE HISTORY:** In 1978, the subject property was rezoned (Z-2028) from "AA" One Family (now "SF-5") to "C" Commercial (now "GC") and DP-86 Duke's Diamonds CUP and Duke's Diamonds Addition were established to permit use of the subject property as private athletic fields.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-5"	Truck driving school
SOUTH:	"TF-3" & "MF-29"	Duplexes, apartments
EAST:	"SF-5"	Single-family
WEST:	"GC"	Church and associated recreation facilities

**PUBLIC SERVICES:** The subject property has access to 40<sup>th</sup> Street North, a two-lane paved local street, and to an access road to Seneca, a two-lane paved local street at this location. The subject property is not currently served by municipal water or sewer service.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Public/Institutional" development. The proposed amendments to the signage regulations are consistent with the "Public/Institutional" designation of the Land Use Guide.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The development of this property shall proceed in accordance with the approved development plan, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
2. Any major changes in the development plan shall be submitted to the Planning Commission for consideration.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by low-density commercial and industrial uses along the I-235 corridor. The frontage along the north side of I-235 in this vicinity is predominately zoned "GC" General Commercial and is used for outdoor recreation uses. The request is consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "GC" Limited Commercial, and is currently developed with private athletic fields. The proposed changes to the signage regulations may be permitted with approval of the requested CUP amendment.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The existing provisions of DP-86 should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, nearby residential uses are buffered from the subject property by I-235 and the Seneca overpass.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Public/Institutional" development. The proposed amendments to the signage regulations are consistent with the "Public/Institutional" designation of the Land Use Guide.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

**MOTION:** To approve, subject to staff comments and citing the findings in their report.

**DUNLAP** moved, **HENTZEN** seconded the motion, and it carried (11-0).

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**9a. Case No.: ZON2003-68 (CUP2003-62 DP271)** – Ritchie Development Corp., c/o Rob Ramseyer, (owner); Baughman Company, PA, c/o Terry Smythe (agent) request Sedgwick County Zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on property described as;

and

**9b. Case No.: CUP2003-62 DP271 (ZON2003-68)** - Ritchie Development Corp., c/o Rob Ramseyer, (owner); Baughman Company, PA, c/o Terry Smythe (agent) request Creation of The Krug Commercial Community Unit Plan on property described as;

That part of the Southeast Quarter of Section 2, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at the Southeast corner of the said Southeast Quarter; thence S 88 degrees 37'22" W along the south line of said Southeast Quarter, 888.69 feet; thence N 00 degrees 24'35" W parallel with the east line of said Southeast Quarter, 643.00 feet; thence N 38 degrees 21'23" E, 547.16 feet; thence N 09 degrees 46'20" E, 126.69 feet; thence S 80 degrees 25'30" E, 118.62 feet; thence S 80 degrees 07'11" E, 168.60 feet; thence S 78 degrees 29'12" E, 246.17 feet to a point on the east line of said Southeast Quarter; thence S 00 degrees 24'35" E along the east line of said Southeast Quarter, 1077.81 feet to the point of beginning, all being subject to road rights-of-way of record. Generally located at the northwest corner of 21<sup>st</sup> Street North and 143<sup>rd</sup> Street East.

**BACKGROUND:** The applicant is requesting to create DP-271 Krug Commercial Community Unit Plan, which would be a 19+ acre development located on the northwest corner of 21<sup>st</sup> Street North and 143<sup>rd</sup> Street East. It has five total parcels, with one large parcel (12.22 acres) and four smaller parcels ranging from 1.4 to 1.52 acres. The property to the west of the C.U.P. (Res. C, Krug North Addition) is proposed for drainage purposes.

Requested zoning is "LC" Limited Commercial, subject to prohibiting the following uses: adult entertainment establishments, sexually oriented businesses, group homes, group residential, correctional placement residences, asphalt/concrete plants, private clubs, taverns, and drinking establishments.

Maximum building coverage is 30 percent, and maximum gross floor area is 35 percent. Maximum building height is 45 feet. Setbacks are 35 feet for the perimeter property lines.

The C.U.P. includes provisions for landscaping and for pedestrian connections between the buildings and the arterial streets. Architectural and parking lot elements are to be consistent among the parcels and the buildings are to employ materials similar to surrounding residential areas. Lighting is limited to 24 feet in height. A screening wall is required along the north and west property lines where bordering residential zoning.

Signage would be monument signs with a maximum height of 30 feet spaced a minimum of 150 feet apart. Total amount of signage would be 400 feet for Parcel 1 and 200 feet for the other parcels. Additional requirements would limit window signage to 25 percent and prohibit portable and off-site signs. The amount of signage would exceed the heights allowed by the comparable commercial developments at the intersection of 21<sup>st</sup> Street East and 127<sup>th</sup> Street North and in size for the C.U.P. on the northeast corner.

Most of the surrounding area is still in agricultural use or large suburban properties, and is zoned "SF-20" or "RR" Rural Residential. New residential subdivisions are under development approximately one-half mile to the west.

**CASE HISTORY:** The property is unplatted. A preliminary plat for the property was approved December 4, 2003.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-20"	Agricultural land
SOUTH:	"SF-20"	Agricultural land
EAST:	"RR"	Agricultural land, suburban large-lot residential
WEST:	"SF-20"	Agricultural land

**PUBLIC SERVICES:** Traffic counts for 21<sup>st</sup> Street North in 2002 were 7,800 vehicles (ADT). Current traffic counts were unavailable for 143<sup>rd</sup> Street East. Projected provisional traffic volumes for 2030 on 21<sup>st</sup> Street North would be 22,000 vehicles per day.

The C.U.P. proposes two points of access onto 21<sup>st</sup> Street North and three points of access onto 143<sup>rd</sup> Street East. The access points nearest the intersection would be right-in/right-out only.

Public sewer service has not been extended to the site and will be needed prior to development. Other normal public services are available or are in process of being extended to the site.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "low density residential" development.

**Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The **Commercial Locational Guideline #3** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

**Residential Objective II.A.1** seeks to use community unit plans and other tools to promote mixed use development, higher density residential environment and appropriate buffering. As proposed, the C.U.P. places "LC" uses adjacent to low-density residential without intervening buffering of uses.

The proposed C.U.P. is not in conformance with the "Wichita Land Use Guide" recommendation of low-density use nor is it in conformance with the recommended residential objective of using the C.U.P., mixed uses, or higher density residential uses as an appropriate buffer.

**Recommendation:** The amount of commercial use requested is similar to the amount approved on the northeast and southeast corners of 21<sup>st</sup> Street North and 127<sup>th</sup> Street East, the closest arterial intersection to the subject tract. 21<sup>st</sup> Street North is a major arterial link between Andover and Wichita. Commercial use is anticipated along this arterial. Large-scale commercial development exists at 21<sup>st</sup> Street North and Rock and extends to the Webb intersection. Another large-scale development is approved for the 21<sup>st</sup>/Greenwich intersection. Approval of a mid-scale commercial node at this intersection would be typical of the past commercial pattern in East Wichita.

The C.U.P. includes restrictions on site development (e.g. screening wall on the north and west property lines) and intensity of uses to reduce the effect of commercial development from the suburban residential housing to the northeast and the proposed urban-scale residential development to the north and west (Krug North Addition). Some additional requirements are recommended to ensure that the uses on the northeast corner of the tract do not impact the residential area to the north and northeast. Signage heights are recommended to be 20 feet, which is the heights permitted in the C.U.P.s at 21<sup>st</sup> Street North and 127<sup>th</sup> Street East.

The requested number of access points corresponds with the recommended spacing in the Access Management Policy.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED for "LC" Limited Commercial, subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2003-00068) to "LC" Limited Commercial;
- B. APPROVE the Community Unit Plan (DP-271), subject to the following conditions:
  1. Transportation requirements:  
Access points shall be in conformance with the Access Management Policy, with the joint access points between Parcels 3 and 4 and Parcels 4 and 5 being right-in/right-out only.
    - a. The developer shall petition for accel/decel lanes and a left turn lane on 21<sup>st</sup> Street North and 143<sup>rd</sup> Street East.
    - b. The developer shall petition for traffic signal improvements at the 143<sup>rd</sup> Street East/21<sup>st</sup> Street North to address traffic safety and efficiency needs. Other signal improvements are contingent on a traffic study warranting the signalization.
  2. Add: No development shall be permitted until public sewer is extended to the property.
  3. General Provision #6 shall be amended to add ", with the following additional requirements:"
    - a. GP#6A: Parcel 1: "300" square feet; Parcels 2-5: "150" square feet
    - b. Insert the word "interior and exterior" to GP#6E to clarify the provision applies to interior and exterior window display signs.
    - c. GP#6G: change to "20 feet for Parcels 1-5".
  4. Add to General Provision #10A: "Limited height of light poles, including pole base, to 24 feet, except shall be restricted to 14 feet within 200 feet of residential zoning on the north and east."
  5. Add to General Provision #16: add to first sentence... exterior building materials, "and similar landscape palette", as determined... Add: "No predominately metal facades shall be allowed."
  6. General Provision #18: add to second sentence "...", or any use that would require a Conditional Use approval in the "LC" district." Add: "Convenience stores with gas islands, service stations, vehicle repair, limited, restaurants with drive-in or drive through window service, and any single use greater than 8,000 square feet in size shall not be permitted within 200 feet of residential zoning. No overhead doors shall be allowed within 200 feet of residential zoning and shall not be facing any residential zoning district."
  7. Add to General Provision #25: "A site plan shall be required for review and approval by the Planning Director prior to the issuance of any building permits; the site plan shall ensure internal circulation within the parcels and joint use of ingress/egress openings and that private drive openings are not impacted/ blocked by the layout of parking stalls or landscaping.
  8. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  9. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.

10. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
11. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-271) includes special conditions for development on this property.
12. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most of the surrounding area is still in agricultural use or large suburban properties, and is zoned "SF-20" or "RR" Rural Residential. New residential subdivisions are under development approximately one-half mile to the west. The adjacent property to the north and west is proposed for urban-scale single-family use.
2. The suitability of the subject property for the uses to which it has been restricted: Most development at arterial intersections along 21<sup>st</sup> from Rock Road eastward have been developed with commercial, office or institutional uses. The property could be developed as zoned with institutional uses without the rezoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The impact of commercial use would be expected to impact the existing large lot development in the vicinity and to increase the probability of other zoning requests for commercial use on other corners of the intersections. The effect of the commercial activity on the existing residences to the northeast would be reduced by the suggested conditions of the C.U.P. plus the additional buffering of uses and recommended conditions to reduce the intensity of commercial activity in proximity to the residential area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended 1/02" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "low density residential" development, which is not in conformance with requested zoning.
5. Impact of the proposed development on community facilities: No development should occur until public sewer service is provided. The development will increase traffic. This increase can be mitigated by the addition of accel/decel lanes and left turn lanes and signalization.

JOHN SCHLEGEL Planning Director. The applicant has requested the case be deferred for up to six months. In talking with the applicant about this, they could bring it back sooner than six months. But, whenever it would be reheard, we would send out a new letter notifying the people that received the notification about this item being heard today. So you would know about it. And they have indicated that the proposal that was before this commission today may be modified. So what would be brought back at a later date may be different than what you were notified of today.

BISHOP Just in case there isn't someone here that wasn't notified, they can sign up and be notified?

MARNELL Yes, if you are here on that case, and you haven't received official notification, there is a sign-up sheet where you sign up by case numbers. If you sign up for that case today, then you will be notified.

**MOTION:** To defer for six months.

**DUNLAP** moved, **WELLS** seconded the motion, and it carried (11-0).

10. **Case No.: CON2003-49** – Mohsen Etezazi and Evans Building Company c/o Robin Roberts (agent) request Conditional Use for vehicle sales outdoors, on property zoned "LC" Limited Commercial on property described as;

Lots 6, 8, 10, 12, 14 and 16, Block 3, Wilson's Addition to Wichita, Sedgwick County, Kansas. Generally Location East side of Broadway between Osie (n) & Funston (s), with an empty lots(s) between the two addresses (1724 & 1734 S. Broadway)

**BACKGROUND:** The applicant is requesting a Conditional Use to allow outdoor vehicle and equipment sales on Lots 6, 8, 10, 12, 14 & 16, Block 3, Wilson's Addition. The subject properties are zoned "LC" Limited Commercial. Outdoor vehicle and equipment sales may be permitted with a Conditional Use in the "LC" zoning district.

The subject properties are located south of Harry, between Osie & Funston, on the east side of Broadway. Lots 6 & 8 (1724 South Broadway) & Lots 14 & 16 (1734 South Broadway) have older (built in 1907 & 1919) single-family residences on them, sandwiching the undeveloped Lots 10 & 12. The site plan the applicant has provided shows the single-family residences removed and the subject properties redeveloped with a 1,500-square foot building with paved parking and display areas. The building has no specific use called out for it. The site plan does not identify parking for employees, customers or parking spaces for the disabled. A 6-foot screening fence is shown along the east, south and north sides of the site, with a gate opening onto the unpaved alley on the site's east side. Two 20-foot pole lights are shown in the middle of the site, as well as a wall light located 12-foot up on the east side of the building. There is a concept for landscaping shown along the street frontage, with a note "Landscaping as required", but the type and size of plants used is not identified. No landscaping is shown on the other 3 sides of the site, including the east side, which is adjacent to residential zoning. There are unidentified existing trees on the east side of the site. An unspecified sign is shown within the street frontage landscaping. A trash receptacle is shown on the site, but there is no screening called out for it. The site plan does not identify the half-street right-of-way for Broadway; current Subdivision standards for half-street ROW for Broadway, an arterial, is 60-feet. The site plan shows the existing 3 drives onto Broadway closed, with the site being served by one centrally

located drive. Any variance from Article III, Section III-D, 6.x of the UZC would require a waiver approved by the WCC. Any variance from the landscaping ordinance would require a waiver by the Planning Director.

This section of Broadway consists of mixed-use development including older, pre-1930, single-family residences either still being used for single-family residences or having been converted into two-family or multi-family residential uses along Broadway. There are also some multi-family residential structures and various commercial uses including numerous car sales lots along the Broadway corridor. The zoning along this section of the Broadway corridor is commercial, which has allowed the commercial development to gradually displace the older single-family residential development on the corridor. This section of Broadway has most recently had Conditional Uses for car sales lots approved for sites one block south of the subject site (CON02-54) and expansion of another car sales lot (CON02-43, attached to CON00-10) 2 blocks north of the subject site. There is another car sales lot (CU-488) 50-feet north of the subject site. Other recent developments along this section of Broadway include a bank (1992), across Broadway, west of the site, and a Walgreens (2002) on the northwest corner of Broadway & Harry.

Properties east of the site, across the 20-foot alley, are zoned "TF-3" Two-family residential and are developed primarily single-family residential, although there is a brick duplex directly east of the site. Properties west of the site are zoned "LC", with development including a bank and single-family residential structures with either single-family or multi-family uses. Properties north of the site are zoned "LC" and are developed as a single-family residence and a car lot. If the current request is approved this single-family residence will be between 2 car lots. Properties south of the site are zoned "LC" and are developed as single-family residential and a car sales lot across Funston.

**CASE HISTORY:** The Wilson's Addition was recorded with the Register of Deeds April 9, 1887.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"LC"	Single-family, Car sales
SOUTH:	"LC"	Single-family, Car sales
EAST:	"TF-3"	Single-family, duplex
WEST:	"LC"	Bank, single-family, multi-family

**PUBLIC SERVICES:** This subject property has access to Broadway, a four-lane arterial with current traffic volumes of approximately 11,000 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Broadway will remain approximately 11,000 vehicles per day. Municipal water and sewer services are currently provided to this site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities.

**RECOMMENDATION:** Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. All requirements of Article III, Section III.D.6.x. of the Unified Zoning Code shall be met.
2. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business.
3. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
4. The applicant shall dedicate by separate instrument a contingent dedication of 22.5 additional feet of street right-of-way along the property's Broadway frontage within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
5. The applicant shall provide cross lot access for the properties to the south and north of the site in a form suitable to the City Engineer within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
6. The 3 existing Broadway access drives to Lots 6 & 8, 10 & 12 and 14 & 16, Block 3, Wilson's Addition shall be closed, and the applicant shall provide a guarantee for closure of these drives in a form suitable to the City Engineer within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
7. The applicant shall dedicate by separate instrument complete access control except for one opening along the property's Broadway frontage within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
8. Parking spaces for employees and customers shall be provided on the property as required by the UZC and in conformance with the standards established by the City Traffic Engineer. The parking spaces shall be marked and designated for employees and customers and shall not be used for display or storage of vehicles for sale, unless the vehicle is driven by an employee. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business unless additional parking spaces for such businesses are provided per a revised site plan approved by the Planning Director.

9. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
10. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
11. A revised landscape plan shall be submitted showing a landscaped street yard and landscape buffer, which shall be provided and maintained on the property as approved by the Planning Director.
12. A revised site plan reflecting the conditions of approval (including Section III.D.6.x. of the Unified Zoning Code) shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
13. The site shall be developed in general conformance with the approved site plan and landscape plan. All improvements shown on the approved site plan and landscape plan shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
14. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the neighborhood is that of mixed-use development consisting of single-family and multi-family residential development and various commercial uses including used car sales. Most of the property along Broadway is zoned "LC" Limited Commercial or "GC" General Commercial, with residential zoning limited to areas along the streets east and west of Broadway. The proposed used car lot is consistent with the zoning, uses, and character of the area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial. The property is apparently suitable for commercial uses to which it has been restricted; however, used car sales is an established use in the area and can be suitable for the subject property if developed according to the recommended conditions of approval.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommended conditions of approval which would limit signage, lighting, noise, and display area practices from adversely impacting nearby property.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. This site is located along Broadway, and the recommended conditions of approval have provisions, which limit noise, lighting, and other adverse impacts. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. This site is located along Broadway in an area where auto-related commercial uses already exist.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities if the recommended additional street right-of-way and access controls are provided along Broadway. Not providing the recommended additional street right-of-way and access controls will hinder the City's ability to provide a roadway that is of sufficient capacity to safely carry future traffic volumes.

BILL LONGNECKER The applicant has asked for a change in language on Conditions 4, 5, 6, 7, and 12. The applicant has asked that the 60 days to meet the conditions be changed to 6 months. Staff has no objection to that request.

**MOTION:** To approve, subject to staff comments and revised conditions presented by staff.

**MCKAY** moved, **COULTER** seconded the motion, and it carried (11-0).

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11. **Case No.: CON2003-48** – Richard D. and Verda Hoskinson/Baughman Company (Terry Smythe); Capps Machine (Ron Caopps) request Conditional Use for community assembly on property zoned "SF-5" Single-family Residential on property described as;

That part of the Northwest Quarter of Section 15, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas lying west of and adjacent to the extended west line of Spinnaker Coves-Hoskinson Addition, Wichita, Sedgwick County, Kansas and lying east of and adjacent to the extended east line of Country Acres Fourth "B" Addition, an Addition in Sedgwick County, Kansas, all being subject to road rights-of-way of record. Generally located on the south side of 13<sup>th</sup> Street North approximately 1/4 mile east of Ridge Road.

**BACKGROUND:** The applicant is seeking a Conditional Use to permit "community assembly" on a 25-acre site that is located on the south side of 13<sup>th</sup> Street North, ¼ mile east of Ridge Road. The applicant would like, at some point in the future, to develop the site for a Midian Shrine temple (see attached site plan). At this time a construction schedule has not been determined. The temple would be a two-story, maximum height of 35-feet, 27,000 square foot building located approximately 1200 feet south of 13<sup>th</sup> Street. Although no elevation drawings are available at this point in time, the site plan indicates the building would have architecture compatible with the surrounding area. (Homes to the west were developed after 1959, and constructed of both brick and wood, while the single family homes to the east were developed in the 1990's, and are also a combination of wood and brick construction.)

Parking for 216 vehicles would be located east and south of the proposed temple. Parking is to be screened to the east, south and west, as shown on the site plan.

A playground containing baseball/softball diamond and a soccer field is proposed south of the parking area. These ball fields are to be used by Shriners and their families. The ball fields are not intended for use for large-scale league play like the West Urban fields located to the north.

A 6,000 square foot restroom and storage building would be located west of the parking lot, between the temple building and the playground.

Primary access is to be provided by a long driveway connecting the temple with 13<sup>th</sup> Street. A second point of access to the site would be a gated and restricted to emergency access only connection to Hazelwood, a residential street located to the west.

The site plan also shows berms and landscaping to be installed along both sides of the application area between 13<sup>th</sup> Street and the southern end of the parking lot.

The applicant indicates that during a normal workweek 10 staff members are generally present Monday through Friday who maintains office hours of 8:00 a.m. to 5:00 p.m. On a typical day approximately 75 non-employees visit the site; that number increases to up to 100 for typical evening meetings or functions. The maximum number of people who typically attend their largest functions is approximately 300 people.

Property surrounding the site is zoned a variety of residential districts: "SF-5" Single-family Residential, "SF-20" Single-family Residential and "MF-29" Multi-family Residential. Surrounding properties are developed with: public park, single- and multi- family housing. There is a lake located immediately east of the application area that is mostly owned by the Spinnaker Cove subdivision.

The site plan depicts two monument signs at the entrance of the site at 13<sup>th</sup> Street. The "SF-5" zoning district does not permit this type of signage. A variance from the Board of Zoning Appeals would have to be obtained to permit the proposed signage.

Community Assembly is defined in the *Unified Zoning Code* as "an establishment providing meeting, recreational, educational, cultural, or social facilities for a private membership or non-profit association, primarily for use by members and guests. Typical uses include fraternal organizations...."

**CASE HISTORY:** None filed. There was interest at one time by the owner to purchase the two parkland tracts located west of the site and then develop the larger site with multi-family residential housing. That proposal met significant neighborhood opposition at Park Board hearings. The proposal did not progress to the point that a zoning case was filed.

#### **ADJACENT ZONING AND LAND USE:**

NORTH: "SF-20" Single-family Residential; County park/zoo  
SOUTH: "MF-29" Multi-family Residential, "SF-5" Single-family Residential; Apartments, vacant  
EAST: "SF-5" Single-family Residential; lake, single-family residential  
WEST: "SF-5" Single-family Residential; public park, single-family residential

**PUBLIC SERVICES:** Services are available for extension.

**CONFORMANCE TO PLANS/POLICIES:** The *Wichita Land Use Guide* depicts the site as appropriate for "low density residential" uses. The low density residential category provides for the lowest density of urban residential land use and consists of traditional single-family detached homes, zero lot line units, cluster subdivisions, schools, churches and similar uses found in such areas. The Plan also contains an objective about encouraging future growth and development in areas that are served by existing public facilities and services, or which can be served economically and promote compact and contiguous development.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year, and the following conditions:

1. The site shall be developed in substantial conformance with the adopted site plan, including any development standards listed in the "general provisions" section of the site plan.
2. Signage shall be as allowed per the Sign Code, e.g. one bulletin board sign up to 48 square feet in size per arterial street frontage, and identification signage with letters up to 15 inches in height. (The site plan initially submitted with the application includes a request for two monument-style signs to be located on 13<sup>th</sup> Street. That signage is not permitted by

the current Sign Code, and will require a revision to the site plan unless a variance is sought and granted.) Portable signs shall be prohibited.

3. Any buildings constructed on the site shall have architecture that is compatible with surrounding residential construction (e.g. gable and/or hip roof), and metal shall not be used on any exterior building façade.
4. Parking lot lighting standards shall not exceed 14 feet in height. All outdoor lighting fixtures shall employ cut-off luminaires that minimize light trespass and glare. The light source shall be aimed and/or shielded so that the light source is not visible from neighboring lights.
5. Trash receptacles and HVAC units shall be screened from view from the ground.
6. Lighting of outdoor recreational play fields shall be prohibited.
7. After appropriate reviews if the Zoning Administrator, with the concurrence of the Planning Director, finds that there is a violation of the conditions of approval of this Conditional Use, the Zoning Administrator may declare this Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property surrounding the site is zoned a variety of residential districts: "SF-5" Single-family Residential, "SF-20" Single-family Residential and "MF-29" Multi-family Residential. Surrounding properties are developed with: public park, single- and multi- family housing. There is a lake located immediately east of the application area, and there are some undeveloped tracts. The application area is a passed over tract that adjoins a mix of vacant land, and older and more recent developments.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Churches and schools are permitted uses in the "SF-5" district. Approval of this requested Conditional Use would permit a facility that is similar in intensity of use and hours of operation when compared to a church or school. The single-family residential units to the east and west will be buffered by existing parkland, the existing lake and/or the proposed berms and landscaping shown on the site plan.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would encourage the development of a site that remains vacant despite the fact that surrounding land has been developed. With "SF-5" zoning, the site has a short list of permitted uses. Denial of this request would eliminate a potential use for this site, making it more difficult to develop. Denial would force the applicant to find another site.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *Wichita Land Use Guide* depicts the site as appropriate for "low density residential" uses. The low density residential category provides for the lowest density of urban residential land use and consists of traditional single-family detached homes, zero lot line units, cluster subdivisions, schools, churches and similar uses found in such areas. The Plan also contains an objective about encouraging future growth and development in areas that are served by existing public facilities and services, or which can be served economically and promote compact and contiguous development. Approval of the request would promote the community's goal of encouraging infill development, and be consistent with the Plan's recommendation of allowing uses similar to churches and schools in low -density residential area. A Shrine facility could be viewed as similar in character and impact to a church or school, both of which are permitted by right in the "SF-5" district, with respect to hours of operation, traffic generated and numbers of people present.
6. Impact of the proposed development on community facilities: Facilities are in place or are available for extension to adequately handle anticipated impacts created by this request.

DALE MILLER Planning staff. The main issue that has come up is that the Spinnaker Coves Owners Association are the ones that are maintaining and policing the lake, and they are the ones the ones paying for the liability insurance on the lake. Now, what I am going to tell you has made some people unhappy with me but that is the way it is. I have talked with the Law Department, and they tell me that we are not to factor that in with this land use decision, and that the liability issue is a contractual matter between the Homeowners Association and the insurance carriers, and that is not a land use issue that should be used to approve or deny the request. But one of the main stumbling blocks with the folks that have been notified about this is that they have been told by their insurance carrier that should this request be approved, they will have their insurance cancelled, so that presents a problem for them in term of long term enjoyment of their property. So the insurance problem was not in the staff report per the Law Department's advice.

You should have a revised staff report at your location today with conditions of approval that were not included in the mail out prior to this meeting. The opposition is of the opinion that the Shriners' use of this property is different in nature than say a church or a school, so in their opinion it is more of a commercial venture, and therefore something that is not appropriate in a residential setting between two established neighborhoods. They also indicate that they would lose the liability insurance on the lake if this is approved, and again, I am suggesting that whatever you do, you should not use that as a basis one way or the other. They also feel that the location of the main building is too close to the homes on each side, and using an aerial I measured, and it appears to be about 150 feet west of the closest home to the houses to the west, and approximately 500 feet from the closest home in Spinnaker Cove. They also cited traffic concerns with a single-point of access out on 13<sup>th</sup> Street that during rush hour 13<sup>th</sup> Street is heavily traveled, and I believe is a 50 MPH street there. They also cited drainage concerns. At this point, our traffic engineer indicates that 13<sup>th</sup> Street carries about 13,000 average daily traffic trips. Four lane arterials are designed to handle 20,000 ADT on an average daily basis. The numbers I have been given in terms of participation at the site are that on their very best day when they would have the most attendance they are in the 300-person range. That is the maximum number of people that they would typically see when they have their most attended sessions. On any given day it is between 75-100 people that are there during the day and during the evening. The drainage issue; there was a map revision done on this site apparently after the park land purchase request a couple of years ago, and the best I can tell by eyeballing it, is the location of the buildings would be located on property that according to

the map revision would be located outside of the 500 year flood plain. There are a couple of areas north and south of this that appear to be within the 100-500 year flood plain, but the map revision had more detail to it than just the regular firm maps.

MITCHELL I thought the Park Board granted an access easement across that parcel that is just south of 13<sup>th</sup> Street for this property. Was that for a specific use only?

MILLER I am not aware that was done in any official capacity. The Park Board may have done it, but I am not aware of that except hearsay.

DUNLAP Going back to the emergency access point you showed us, the house on the west side. What is on the east side? Is there anything there now?

MILLER The ownership butts right up against the right-of-way or at least appears to.

TERRY SMYTHE, BAUGHMAN COMPANY I thought the DAB meeting was very nice board meeting, and we have had some discussion on this a number of years ago about putting single-family homes there. The broker for this property looked at that, and tucked his tail between his legs and has been looking for a church or some other kind of use that would be put in there. He has been approached by the Shriners as a possible site that they want to move their facility.

The issues that came up the other night really related to the lake. What I have brought today is the amendment to the covenants, which clearly identifies the rights to the lake. If you look at the property line, there is about 10 foot of the lake on the future Shriners' site property, but if you look at page one of the declaration on what is called the adjacent land, it clearly states that this adjacent land has the ability to use the lake as would anybody else at Spinnaker Coves, and it was signed roughly in March of 2001. Now Spinnaker Coves has the ability to have one small boat per lot. We intend to plat one lot, but if there is any question about the legality of use of the lake, it was granted, and it was noted in this amendment to the covenants that allows this adjacent ground to use of the lake within the same regulations that the Spinnaker Coves people have.

This site plan is basically the wish list of what the Shrine would like to do out there. If they are granted this they have to do major fundraising, and it may occur anywhere from 2-5 years. It will take them a while to come up with some funding. They will have to sell their current facility now to do that. So they are having me show on the site plan all the things that they would like to see done on the property.

If you look at the south end we have some ball diamonds and soccer fields, recognizing that some of the families out there might want some organized sports, but we don't see those things being built initially it would be based on demand, but we want to show on the site plan that we have the ability to put those things in there. The Shrine the other night agreed that there would be no lights on those future ball fields but we are showing you what they would like to have on the site in long term.

The piece of property on the north end, there was discussion when this was going to be a church site. I think the Park Board heard, and granted the ability to move the drive a little further to the west onto the Park Board property for a church. Now since this is not officially a church we are not asking for that, nor have we indicated on a site plan that we want to be over there.

Council member Martz, the other night, was pretty clear as to him not wanting this property to have anything to do with that piece of ground. Maybe he was unclear about what the Park Board had done. We are not asking for that sliver of ground to be dedicated or to use it for this property because of the agreement back then was for a church. So, in my opinion, that has nothing to do with this site.

During the platting stage if the traffic engineer indicates that the drive should be moved over, I think that may be another whole issue, but right now we are not asking for you to approve it subject to the drive being put over there. We are asking for your approval of the site plan you have in front of you, and the conditions that Dale has indicated on the staff report.

We are a "community assembly" use, and that is why we filed it as such. The building location that Dale had indicated by Hazelwood really is constrained by a couple of things. The utilities that we need to hook onto are there, the fire service that we need to hook onto is on Hazelwood, and all along the eastern 100 or so feet of our property is a transmission line that obviously we can't put the building underneath. So we showed the building on the west side closer to where the Fire Department would like to see it, and put our parking lot on the east side near the transmission lines, and hopefully further underneath it if we get the permission from the transmission line company to do that.

MITCHELL If the traffic engineer determined that the end of the present bridge is too close to the west property line of this site for an exit / entrance, and it needs to be moved to the west, it seems to me like we need to know that before we go through the whole zoning thing, and then find out at the time of platting that it can't be done.

SMYTHE That is a good point. Our point of access is to the north on 13<sup>th</sup> Street unless we tie into Hazelwood. The neighborhood at Hazelwood didn't want single-family tied in there, nor do I believe they want this use to tie into that for a main point of access. We have roughly 100 foot of frontage in which we need to tie into a public street. If at the platting stage the traffic engineer says it is too dangerous, and forces us over there we are going to have to live with that decision, but we are not asking for that at this stage.

MITCHELL I would hate to go through this whole process, and find out that you can't get access to 13<sup>th</sup> Street.

MILLER At that point, if that were the condition of platting they would have two possibilities: the Code allows for adjustments of a minor nature to be made to site plans, and they could do that administratively. If it was determined that was not a minor adjustment, then they would have to come in for an amendment, and we would have another hearing and essentially the issue would be where the driveway is going to be located.

HERNANDEZ Attached to the staff report is this letter addressed to you. I am curious, it says the addition of a machine shop to the area would disrupt everything we love. Should this letter have been attached?

MILLER I think the author of that letter, because the applicant or the person who is identified for the Shrine also owns a machine shop, I think, there was an implication that they were putting in a machine shop for their business as opposed to him acting as the representative for the Shrine. There is no machine shop proposed.

HERNANDEZ I don't know a whole lot about insurance, but the issue came up about liability insurance on the lake. How does that work if somebody drowns? You can sue somebody?

MILLER I will leave that up to the homeowners to address.

DUNLAP We had a picture of a bridge. Is that bridge functional?

SMYTHE It is a walking bridge, I believe.

DUNLAP Was it an old street or something?

SMYTHE I don't know why it was put there.

DUNLAP Who owns the bridge?

SMYTHE I don't know. I think if you look at the adjacent land description here as to the joint use of the lake, I guess somebody would have to determine that the bridge is part of the lake.

NEIL GINEST, 6620 Warren Circle, Wichita, KS 67212 I am a homeowner in Spinnaker Coves, and I am also on the Board of Directors of Spinnaker Coves Owners Association (SCOA). That Association has appointed Larry DeBrot and myself to speak on its behalf, and its members.

The proposed use is a commercial type use in a residential area. The Conditional Use would cause SCOA to lose its lake liability insurance. Many of the homeowners are not present, as their schedules would not permit. However, here are the opposition petitions they signed. Spinnaker Coves is an upscale residential development of 76 homes. The houses are built on the east shoreline of our private lake, which occupies about 50% of the development. The lake is the centerpiece of the addition, and the houses are designed to look out over it. The lake is owned by SCOA, which stocks, insures, and maintains it. The proposed use by the Shrine is a commercial type use incompatible with the existing residential areas. Approval of the "Conditional Use" would cause Spinnaker Coves to lose liability insurance on our private lake.

LARRY DEBROT, 6605 Warren Circle, Wichita, KS 67212 I am a Homeowner in Spinnaker Coves.

The proposed use is not residential in nature but commercial. Not really a "community assembly". The proposed use is not a place for the members of the Spinnaker Coves and/or Country Acres communities to assemble, but for 3,400 Midian Shrine members from throughout a large part of the state.

The Shire uses are commercial in nature: A full time business office with significant business traffic open from 8 a.m. to 5 p.m. They have: many evening and weekend functions; a rental banquet hall made available to the general public with activities running at least until midnight; a Class A Club that serves liquor from an open bar to people using the facility and driving to and from the site and a lighted parking lot for more than 200 vehicles. City Staff has recognized the non-residential characteristics and use by identifying the need for buffers. The intensity of lake use is much greater – 76 SCOA owners and their families vs. 500 active Shriners and their families. SCOA property owners living on site have different commitments to stewardship and conservation of resources as opposed to Shriners living elsewhere. SCOA property owners who live on the lake have expectations of privacy and courtesy that differ from those lake users living elsewhere. SCOA has no way of enforcing the lake rules on Shrine members, their renters or visitors. Approval of the Conditional Use will cause the SCOA to lose liability insurance for the lake. State Farm said they would cancel the insurance on the lake.

Why is liability insurance coverage so important? It protects those who might be injured on the lake, homeowners and their guests. Loss of coverage damages public welfare. It protects the ownership of the common areas. Without insurance, ownership of the lake itself, as well as all other common areas, are at risk if there is an accident.

Approval of Conditional Use creates intolerable liability risks. A Class A club serving liquor, and lake access are a recipe for disaster. If developed as previously planned, insurance would remain available. Allowing the Conditional Use unfairly changes the rules on which Spinnaker Coves owners relied when they invested in their homes, and put their well-being and investments at risks.

There is no reason to believe that residential development is not possible for the property. Planning staff states, "The site could be developed as currently zoned." Failure of a past residential development proposal was the result of the developer's business plan, considering the land purchase price, land development costs and the number of potential lots. Vacation of the parkland was requested but not obtained by the landowner, thereby reducing the number of possible lots for houses. The SCOA supports single-family development.

Staff's view that this represents an infill opportunity misses the larger picture. Spinnaker Coves is an infill redevelopment of a sand pit. If the expectations on which people build \$750,000 homes in Wichita are not stable they won't build them in Wichita. They will use undeveloped land in the county. Promoting infill means respecting, and protecting the integrity of infill that has already been done. The current owner of the land that is the subject of this application is the same person that sold the east land, and the lake, which were major parts of his commercial sand pit site. This was to be developed as an upscale residential site, now known as Spinnaker Coves.

The proposed "Conditional Use" is not compatible with the residential neighborhood. Spinnaker Coves would lose its lake liability coverage by the proposed change. The property is suitable for the uses to which it has been restricted. The Midian Shrine is not in immediate need of a new site, and has not purchased the land yet – so no hardship from a denial. City Staff's recommendation was made without the opportunity for neighbors' input.

BARFEILD You speak for 76 homeowners?

DEBROT Yes.

BARFIELD How many have signed the petitions?

DEBROT When we surveyed there it is probably close to 75%.

BISHOP I will ask about the amendment to the Homeowners Covenants and Conditions. This was done in 2001, and refers to the other side of the lake I take it.

DEBROT When this land was originally developed, and the owner of the west side which also owned the lake and the east side sold the property on the east side of the lake to the developer to develop, that developer also had a option for single-family development on the west side, he land that we are talking about today, to pick up that option and develop it. After that development started, the developer on the east side felt like he was getting into pretty high debt getting all the utilities in and everything. So he asked out of his option. The owner of the west side told him he could get out under two conditions: monetary consideration, which was made, and that they have access to the lake. So basically that was put in as part of the negotiations for the developer to get out of a proposed option with the landowners. Long before us homeowners showed up, we were aware of that, and it was a consideration and a concern of all of us, but we were told by everybody that it will be single-family development, and they will look just like you.

BISHOP This is dated 2001, and it was signed by you. So this amendment was afterwards?

DEBROT We did have a concern about the amendment...said that they had use of the lake. We knew they were going to have use of the lake, but the thing said that they had voting rights on the lake rules, and after we got some legal advice the legal advice said that you can't deny them use of the lake, and nobody is here saying they can't use the lake. The legal advice says that they should not have voting rights on the lake rules because they don't pay taxes or do any of that. So we did have an amendment, unanimously passed, that would say the owners on that side would not have the right to vote on the lake rules.

GINEST I might also add that circumstance had to do with the fact that they are not subject to the remainder of the covenants, so therefore they shouldn't have any voting rights to the lake but to agree to abide by the rules.

PATRICK HUGHES, ADAMS AND JONES, CHTD, 155 N. MARKET, STE 600, WICHITA KS 67202 Attorney for Spencer Coves Homeowners Assoc. I simply want to clarify a couple of points. The first question is how is it that this amendment is in 2001? It is true the amendment was in 2001, but the right had been granted prior to that. So the document you have in front of you is not the original document granting the ability to use the lake by the adjoining landowners.

The procedural part that I want to address is something that Mr. Miller pointed out. He had indicated that he had received some legal advice that you shouldn't consider the lack of insurability. I disagree with that advice. I am here to ask you in fairness to both the applicant and to the opponents, and that is to make it clear in the record when you make a decision whether or not that is a factor that you are considering in that decision. That way that legal question of whether it is proper or not proper will look at the lack of insurance or the loss of insurance can be properly put before a decision maker in the future.

LES BRUMLEY, 6606 Warren Circle, Wichita, KS 67212 You have a memorandum in front of you to the MAPC from the DAB, and on the back side of that it says that "The DAB recommends by a vote 4-1 that the request be approved with the following conditions," and then lists 4 conditions, and the final condition says "Events held in any future facility that are rented to a second party by the Shrine will end at mid-night". I would like to point out that even in the Revised Staff Report this one is omitted, and I would like that to be entered in there.

We were promised this would be developed as single-family development across the lake. Zoning uses and neighborhood character, "In "staff's" original report please note that paragraph #3 states "extent to which removal of restrictions will determinably affect nearby property (to) the single-family residential units to the east...will be buffered by the existing lake.

After public comment was allowed, Council member Martz closed the floor to public discussion, and proceeded to chair the discussion among the DAB members. One of the first points of order was that one of the members of the board endeavored to clarify the term "buffer". The definition put forth was simply that a "buffer" is something that delineates a line between one property and another. The impression made was that a "buffer" could be anything from a street to a sidewalk or a tree. Why does this matter? The "Wichita-Sedgwick County Unified Zoning Code, Article II: Rules of construction and definition "states under Definitions" for the purpose of this Code, words in terms defined in this section shall be given the message set forth here. All other words shall be given their common, ordinary meanings, as the context may reasonable suggest. The word "buffer" does not appear anywhere in those definitions. Webster's New College Dictionary defines "buffer" as: some thing that lessons or absorbs the shock of an impact; one that protects like intercepting or moderating adverse pressure or influences; something that separates the entities as a neutral area between two conflicting powers.

The DAB staff first presented their case then the representative of the applicant was allowed the opportunity to further address the requested change. The public was then allowed the opportunity to further address the presented material. Unfortunately for all concerned, the staff report was incomplete. Staff had neglected to delineate the proposed restrictions, which would apply to "Community Assembly" re-designation. Thus, as a parliamentary procedure, the recommendation made by the DAB is faulty due to the fact that the public was not allowed to provide input to the DAB on the proposed restrictions.

JOAN GINEST, 6602 Warren Circle, Wichita, KS 67212 At some point and time you folks planned this to be a residential area, and now you want to change it to "Limited Commercial" or "Commercial". I heard you should not worry about our insurance problem. When State Farm Insurance Company says that use of our little lake by a group such as the Shriners with their public leasing and alcohol sales presents such a high risk that they won't insure it at any cost you should ask yourself if this use is appropriate.

The landowner on the west side has had opportunities in the past, and still has opportunities to sell this land for appropriate residential use. The Shrine has opportunities downtown. They want to abandon the area downtown because they say it is dead. I thought one of your goals is to revitalize the downtown area so that it might be a more appropriate venue for the Shrine.

HARRELL DUNCAN, 1326 SANDPLUM, Wichita, KS 67212 I am a single-home residence. Prior to today I had made up my mind as to the way that I felt things were going. I request the action on this case be delayed for the following reasons: because the issues were not clear, and secondly from December 18<sup>th</sup> to January 8, 2004 is not enough time for the residences to obtain information, organize and conclude their efforts in this manner. Two holidays fell in the middle of that time. The Shriners have stated they don't have the funds today to build. This means a passage today is not compelling. In my judgment it could be passed later. Also, if they can't get the funds they could sell the land to some other community assembly group. In my opinion, the SCOA had a lot of information of significance to issue, and I believe the use of their efforts could benefit Spinnaker Coves, as well as Country Acres, as well as the City of Wichita.

DENNIS MOORE, 1128 HAZELWOOD, Wichita, KS 67212 There are some new members on the MAPC Board today than back in 2001. This owner petitioned the City to vacate property that he had phony deeds on, on Reserve A and Reserve C, and when we found that out, and the fact that the City of Wichita did not even have Hoskinson's name on the deal they withdrew the petition to plat it into single-family dwellings. Mr. Hoskinson's has been filling in this property of his, and it is a flood plain. There is no way he can build houses there on the ground level that it is in. I back up to Reserve C, and he has been filling in anywhere from 30 inches to over 4 feet of the ground there on the south end. We have flooding there now. We have water standing there in the back. This past summer with the West Nile virus the kids can't even play out there because of mosquito's are so bad.

He made the statement that he had to have Reserve A and Reserve C, which is City Park's that he had to have those to make it feasible for him to plat it, and bring in the sewer, water, gas, electric lines, and there is no way he can justify the lot sales. They are out of reasons. They would be higher than they would be at Spinnaker Coves, and they are not as valuable lots because of the high lines going through there right next to the lake. He has a deed that his son deeded to him when he sold the property where the vacated Reserve B was, and the son Scott Hoskinson deeded him a piece of property that he didn't have a deed on that was dedicated to the County way back in 1959 or 1958 when it was platted. Even the City doesn't have deeds to those properties. So how can Mr. Hoskinson own a piece of property that there is no deed on to begin with?

The City property where 13<sup>th</sup> Street has to be filled in anywhere from 9 feet to 11 feet of fill to meet the flood plain level there. It is going to put the City of Wichita with a ravine down in there, and how are you going to drain the water there? It is going to fill in by my backyard there almost the level of two feet above my backyard if that property is developed. I had the storm drainage engineer come out, and it ended up that if he built houses there they would have been five foot above my backyard. It should be made conditional that he should take that dirt and fill that he put in there out of there before anything is done with it so that it would protect the people that live in the City of Wichita.

RON CAPPS, CAPPS MACHINE, 2121 S Edwards, Wichita, KS 67213 I am past President of Midian Shrine, and I am the current Chairman of our Land and Building Committee. Our local chapter here in Wichita was chartered in 1908. We are not a college frat house. We are a respectable member of the City. What we have done is that about five years ago, our plan committee looked at new sites, and when a land comes to us we evaluate it with a model, and between 1-8 and the members voted to pursue the properties. We have looked at the covenants, and we agree to comply with the rules. Our intent is to be a good neighbor.

TERRY SMYTHE Look at the Declaration of Covenants that identifies that today the owners have the right to the lake, and if there are insurance issues. We are not asking for anything to be changed with the rules of the lake. Planning staff and legal staff has labeled this as "community assembly". The SCOA has enforcement in their protective covenants. The Shrine did meet with the SCOA. We are constrained on the east side by the transmission line. We think one building is much better than 41-45 houses that could go out there today.

MCKAY In the game plan for the Shrines how would they use the lake.

CAPPS We are platting one lot, and we would be allowed to have one boat to their 87 boats. However, our members may want to fish the lake.

MCKAY The only probably I am having is you have 3,400 members, right? And you multiply that by families, and I can see the whole west side of this lake lined up with fisherman, and I can see why they don't want this to be there. Is there any kind of agreement you can make with the SCOA, like not to use the lake or a minimum use of the lake or join in the liability of the insurance?

CAPPS All of the things are on the table. We want to be a good neighbor.

MARNELL We got this case because "community assembly" requires Conditional Use in the "SF-5" Single-family zoning if this was instead a church facility, would it require a Conditional Use on that property?

MILLER No. It would be "by right."

BARFIELD We are being asked not to consider the insurance issue, and it is quite difficult not to do that. I am going to look at this as a land use issue. I don't feel this is the best use for that land, and even in the staff report and the staff comments that this land

could be developed as presently zoned, so basically when I look at it from that standpoint, and the fact that there is so much opposition, and I think understandable so.

**MOTION:** To deny this application.

**BARFIELD** moved, **MITCHELL** seconded the motion.

DUNLAP I think preparation, and the presentation by the Homeowners was very well done. I think maybe they should know that the DAB does not make recommendations to us. The DAB makes recommendations to the City Council member for that area. We look at it, but they don't make recommendations to us. The comment was made about alcohol use, and I would make the comment that I see the opportunity for alcohol use on the east side as well. Maybe the SCOA would like to get some money together, and buy the land. Platting now requires that storm water control or storm water run off be controlled on any new building permit. The additional time for delay for the residences just to create more numbers of residences with the same objection really doesn't serve any purpose for me.

BISHOP I think we have seen other situations where you really have a problem when you have a subdivision amenity like a lake that has divided ownership. I intend to support the motion to deny. I think it is six months to a year before they can come back to us. I do believe that additional time could be a benefit, and answer some of the questions about appropriate access to 13<sup>th</sup> Street, and answer question in terms of the liability issues, and could give the residences on either side of this property a chance to work with the applicant, and get responses to their concerns. One of my concerns is this huge parking lot, and while the site plan doesn't show all that, I think some additional landscape buffering would be desirable.

MITCHELL This is a very difficult piece of land. The presence of the high voltage line further complicates the matter. The parcel was left as it is now as a remnant of the development that has occurred at Spinnaker Cove. There have been three or four options, in my experience, on what to do with it. The one I would support was that it be acquired as a piece of park connected to the Sedgwick County Park on the north, and to the vacant parcels of land adjacent to this same body of water clear down to Central which would then connect to further open space that would lead clear on down to Maple. I don't think this is an appropriate use.

MARNELL Would the applicant be receptive to a deferral?

SMYTHE Yes.

MARNELL Because I heard the applicant express willingness to address the concerns, and work with the Association to resolve some of those issues, and I would like to see that happen.

**SUBSTITUTE MOTION:** To defer for 4 weeks.

**MARNELL** moved, **HERNANDEZ** seconded the motion.

DUNLAP Are you including in your motion that they be directed to meet or just hope that they will?

MARNELL I don't know that we can direct them to meet. They expressed a willingness to meet, and I think we that we would trust that they would follow through with that.

MCKAY Is that for both the SCOA and the applicant that they would work together?

MARNELL I would hope that they would work together.

MCKAY The applicant is saying yes, we will work with them, but if the opposite side won't work with them I think we need some kind of guarantee or verbal commitment from the SCOA that they will work with the applicant.

GINEST I was a representative to speak against the proposal. I don't think that anyone here is a representative from the Board of Directors that can make a decision like that. That kind of direction would have to come from the Board of Directors. I am not saying that they would or that they wouldn't.

MARNELL I would hate to see this come back in four weeks, and find out that your homeowners association refused to discuss this issue.

HUGHES That is certainly understandable, and there are other opponents from Country Acres community, as well as who I would expect if what we do here is have some sort of approach that is joint to try and deal with the problems ought to be incorporated in that and I would suggested that maybe looking at it for four weeks is not really likely to get us to where we need to be. Considering that we have groups that are not affiliated right now that we are trying to coordinate, and as I understand it, the Country Acres folks, they are not particularly well organized at this point internally, and I think maybe four weeks is a little short.

**AMENDED SUBSTITUTE MOTION:** To defer for 8 weeks.

**MARNELL** moved, **HERNANDEZ** seconded the motion.

MCKAY I would still like to say that don't use this two months to build your case without trying to work with the Shrine organization. It would be very evident when you come back if that is what has happened. It is in the best interest of everyone to try and work this out.

BARFIELD I would suggest when you look at the level of opposition that we have here I think that we would be kidding ourselves if we thought in 4 weeks or 8 weeks they could convince a sizable number of these protestors to change their mind. I think we are wasting our time.

**AMENDED SUBSTITUTE MOTION:** To defer for 8 weeks.

**MARNELL** moved, **HERNANDEZ** seconded the motion, and it carried (9-2) **BARFIELD** and **MITCHELL** opposed.

❖ **PLANNING COMMISSION ITEMS**

12. **Case No.: DR2003-32** – Request The City of Kechi seeks annexation of portions of Hillside Road adjacent to The City of Kechi, north and south of 61<sup>st</sup> Street North

The proposed annexation area falls within the Small City Growth area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in 2002. After review by staff, it has been concluded that the proposed annexation of portions of Hillside Road north and south of 61<sup>st</sup> Street North is consistent with the Wichita-Sedgwick County Comprehensive Plan. Staff recommends that the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 03-509 of the City of Kechi to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan

**MOTION:** To approve and take the recommendation action that this item is consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

**MARNELL** moved, **BISHOP** seconded the motion, and it carried (8-0).

13. **Case No.: DR2003-34** - Request The City of Kechi seeks annexation of portions of Woodlawn Road and 53<sup>rd</sup> Street North adjacent to The City of Kechi

The proposed annexation of Woodlawn Road falls within the Small City Growth area as designated within the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Metropolitan Area Planning Commission and the Board of County Commission in 2002. Staff has determined that the proposed unilateral annexation by Kechi of that segment of Woodlawn Road north of 53<sup>rd</sup> Street North to Highway 254 is consistent with the Wichita-Sedgwick County Comprehensive Plan. However, staff has determined that the 53<sup>rd</sup> Street North segment proposed for annexation by Kechi currently falls within the corporate boundaries of either Kechi or Bel Aire, and is not subject to review by the MAPC. Staff recommends that the Metropolitan Area Planning Commission find the proposed unilateral annexation by the City of Kechi, of that segment of Woodlawn Road north of 53<sup>rd</sup> Street North to Highway 254, to be consistent with the adopted Wichita-Sedgwick County Comprehensive Plan

**MOTION:** To approve and take the recommendation action that this item is consistent with the adopted Wichita-Sedgwick County Comprehensive Plan.

**MARNELL** moved, **BISHOP** seconded the motion, and it carried (8-0).

14. Other matters/adjournment.

DUNLAP Yesterday at the County Commission meeting they discussed the visioning process and they are going to hold public hearings and they are going to be mediated public hearings where there will be invitations issued to people who would like to attend. There will be six of them. I will go to as many of those as I can as an observer because we are going to hear a lot from the neighbors about what they think is important to the City and the County. One of them I will be a participant.

The Metropolitan Area Planning Department informally adjourned at 3:30 p.m.

State of Kansas     )  
Sedgwick County    ) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)